



# Massachusetts Office On Disability

One Ashburton Place, Room 1305  
Boston, MA 02108

William F. Weld, Governor  
Lorraine Greiff, Acting Director

[617] 727-7440 Voice & TTY  
[800] 322-2020 Voice & TTY  
[617] 727-0965 FAX

Before the  
Federal Communications Commission  
Washington, D.C. 20554

RECEIVED  
NOV 27 1996  
FCC MAIL ROOM

In the Matter of )  
)  
Implementation of Section 255 of the )  
Telecommunications Act of 1996 )  
)  
Access to Telecommunications Services, )  
Telecommunications Equipment, and )  
Customer Premises Equipment )  
By Persons with Disabilities )

WT Docket No. 96-198

DOCKET FILE COPY ORIGINAL

## Comments of the Massachusetts Office on Disability

Massachusetts Office on Disability  
1 Ashburton Place, Room 1305  
Boston, Massachusetts 02108  
617-727-7440 (Voice & TTY)

November 26, 1996

No. of Copies rec'd  
List ABCDE

028

## **Table of Contents**

### **Summary**

- 1. Introduction**
- 2. The market place does not offer sufficient protection for people with disabilities.**

**Such protection is needed in the form of clear regulations and guidelines.**

- a. The market pressure to which Microsoft refers occurred because of government intervention.**
- b. The market pressure which resulted has been inadequate to prevent further harm.**
- c. The strategies which require application of market pressure by state government purchasing power is a poor model, and establishment of clear regulations and guidelines is preferable.**

### **3. Conclusion**

### **Summary**

The Massachusetts Office on Disability applauds the Commission's efforts to promptly implement Section 255 of the Telecommunications Act. The Commission should issue rules

to ensure that telecommunications service providers and information technology equipment manufacturers have maximum clarity on process and performance expectations under Section 255; and to ensure that individuals with disabilities have the opportunity to be clearly apprised of the provisions of Section 255 regarding accessibility, usability and compatibility which will enable our full participation in society.

The market place has proven unable to protect the needs of individuals with disabilities with regard to telecommunications access. Even where the marketplace has served as the vehicle of government intervention, the marketplace has provided no timely solution and proved inadequate in preventing continued harm from access barriers persisting during a prolonged retrofit. The Commission should protect against a repetition of this poor model through the establishment of clear regulations and guidelines.

## **1. Introduction**

The Massachusetts Office on Disability (MOD) thanks the Federal Communications Commission ("Commission") for this opportunity to provide reply comments in the matter of accessibility of telecommunications services, telecommunications equipment, and customer premises equipment. The Massachusetts Office on Disability is a state agency. Our mission is to increase access for people with disabilities to all aspects of community life including employment, education, civic activities and daily living. Telecommunications access is critical to the ability of people with disabilities to enjoy the benefits of commonly available

telecommunications without having to rely unnecessarily on specialized and expensive work-arounds to mainstream technologies. We offer responses below to issues raised in the initial comment period.

**2. The Market Place Does Not Offer Sufficient Protection for People with Disabilities. Such Protection Is Needed in the Form of Clear Regulations and Guidelines.**

In their comments, Microsoft suggests that their recent efforts in regards to accessibility are attributable to market pressure, and had no relation to government intervention and that competitive forces in the market are sufficient to protect the needs of people with disabilities; and that therefore no regulations are needed for Section 255 (pages 2, 5, 8).

**a. The Market Pressure to Which Microsoft Occurred Largely Because Of Government Intervention.**

Although we have no desire to detract from the importance of the corporate commitment to accessibility at Microsoft, nor from the excellent efforts of the dedicated accessibility team at Microsoft, we feel compelled to highlight the context in which these have evolved, and the implications for Section 255.

In the fall of 1994, disability-related agencies in Massachusetts met to review the growing volume of complaints from blind computer users who reported loss of jobs, promotions, and anticipated hires due to the increased use of Windows 3.1 in the workplace. Communication with national advocacy organizations, the Federal government, and eventually with Microsoft itself confirmed not only a substantial history of unresolved dialog on access needs, but indications that Windows 95 would not address the most significant barrier to accessibility -- screen reader compatibility with Windows and Windows-based applications.

After a review of the state's obligations under Section 508 of the Rehabilitation Act, which requires accessibility of information technology procured through government agencies, Massachusetts officials took an unprecedented step. In January 1995, we communicated with a major operating system manufacturer our concerns that our state government would not be able to purchase Windows 95 unless access for people who use screen readers was addressed.

At the same time, other states were conducting similar reviews. National advocacy organizations were expanding their efforts, and parts of the federal government were re-examining their own obligations under Section 508. The market pressure to which Microsoft refers was from government agencies.

**b. The market pressure which resulted has been inadequate to prevent further harm.**

Microsoft responded by establishing one of the most comprehensive access efforts of any software manufacturer to date. In January 1995, a Senior Vice President at Microsoft sent correspondence to the Massachusetts Commission for the Blind and the National Council on Disability describing the company's commitment to change their approach on access issues and several meeting were conducted to discuss methods of resolution of these critical issues. Yet from that point until today -- twenty-two months later -- the final version of Microsoft's accessibility solution for the screen reader problem has yet to be released. We are aware that release is anticipated soon. However, the situation for blind computer users whose workplaces have adopted Windows has only minimally improved. We continue to receive complaints from individuals whose livelihoods are in jeopardy due to adoption of the Windows operating system in their workplaces.

Microsoft's efforts to retrofit, in response to government intervention operating through the marketplace, have been unable to prevent continued harm. Arguing to replicate this mechanism in Section 255 will cost the states and local governments in terms of dollars for retrofitting and in terms of lost productivity of its workers. It will continue the destruction of peoples' livelihoods, educations, and other activities. In short, it defeats the very purpose of the law.

- c. A strategy which requires application of market pressure by state government purchasing power is a poor model, and establishment of clear regulations and guidelines is preferable.**

Actions taken by Massachusetts were highly unconventional. They reflected a marketplace which had concluded that the needs of people with disabilities came last. This was due in part to the fact that Section 508 of the Rehabilitation Act affects only what is purchased by a limited segment of the marketplace. It does not address what is sold.

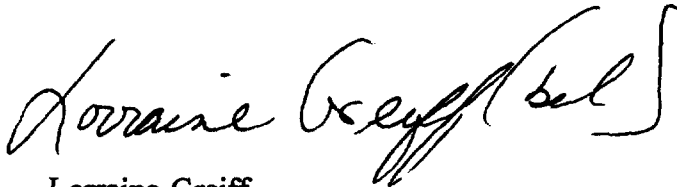
On a fundamental level, these events illustrate an enormous and unfortunate waste of resources and talent. Industry should not have to send out their vice-presidents to respond to threats of embargoes. The states and the disability community should not be forever burdened with complaint driven processes to accomplish compliance with what Congress has already recognized as a legitimate need in telecommunications. Realistically, such campaigns can only focus on a few companies at a time, and cannot be sufficiently effective across an entire market to accomplish Congress's intended goal in Section 255.

### **3. Conclusion**

Microsoft's proposal for an unregulated environment, in the context of its own history with the disability community, would have the unwelcome consequence of promoting never-ending

antagonistic relationships between state government and industry to secure accessibility. A clearly constructed, well-regulated model will let all the parties know what is expected, rather than leaving it up to someone else to deal with telecommunications problems, the resolution of which Congress has delegated to this august body.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lorraine Greiff". The signature is fluid and cursive, with a large, sweeping "L" and "G".

Lorraine Greiff

Acting Director



DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

- ~~o Microfilm, microform, certain photographs or videotape.~~

- ~~o Other materials which, for one reason or another, could not be scanned into the RIPS system.~~

DISK

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.